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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Joshua David Banko

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EXAMINER

GARCIA, CARLOS E

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/798,476	<b>Applicant(s)</b> BANKO, JOSHUA DAVID	
	<b>Examiner</b> CARLOS E. GARCIA	<b>Art Unit</b> 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-12,15-26,28-30 and 32-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-12,15-26,28-30 and 32-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **FINAL REJECTION**

### ***Claim Objections***

1. Claim 7 is objected to because of the following informalities:

The limitation “a disk guide” on line 1, should be --the disk guide--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-2, 4-12, 15-26, 28-30 and 32-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 12 and 25 include the limitation: “a ramp feature to point the optical disk into the optical drive during injection and to point the optical disk during ejection” which is not clearly understood, since the limitation does not indicate in which direction the ramp feature points the optical disk and could be interpreted as any inclined surface capable of pointing, directing or deflecting any edge of the disk in any direction during injection/ejection. Further clarification required.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-2, 4-12, 15-26, 28-30 and 32-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zapalski et al (US 2004/0042623; hereinafter Zapalski) in view of Kan-o (US 6,910,217).

Re claims 1, 12 and 25: Zapalski discloses a computer system 24 (as shown in Fig.2) comprising: an enclosure 26; an optical drive coupled to the enclosure (see para.0019-0022; optical drives are necessary for reading optical discs such as DVD/CD/MP3 formats), a functional bezel 40 having a first opening 50 to receive an optical disk and a first plurality of attachment features 60; and a cosmetic bezel 42 having a second opening 66 to receive the optical disk and second plurality of attachment features 58, the cosmetic bezel rigidly coupled to the functional bezel through a coupling of the first and second attachment features (as shown in Fig.5), wherein the first opening and second opening are in alignment (in Fig.5 for example); wherein the cosmetic bezel is rigidly coupled to the functional bezel to form a bezel assembly (such as by screwing or bolting of the panel 42 to panel 40 in para.0026). Zapalski also discloses the panel 40 can be snap fitted to housing 26 (see para.0021). Furthermore, Zapalski discloses the functional bezel provides structural rigidity for the optical drive (since the panel 40 is securely attached to the optical housing 26, it must also provide rigidity for the optical drive enclosed within housing 26 as required for proper operation), as recited in claims 2 and 29.

However, Zapalski fails to disclose or fairly suggest a disk guide wherein the disk guide includes a ramp feature to point the optical disk into the optical drive during

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injection and to point the optical disk during ejection and a cosmetic screen disposed adjacent to the functional bezel and the cosmetic bezel and fixedly attached to one of the functional bezel and the cosmetic bezel, as recited in claims 1, 12 and 25. Furthermore, Zapalski fails to disclose or fairly suggest wherein the disk guide facilitates proper attachment of the optical disk into the optical drive, as recited in claims 7, 20 and 33; or wherein the ramp feature is rigidly coupled to the functional bezel wherein the ramp feature points the optical disk down into the optical drive during injection and points the optical disk up during ejection and wherein the cosmetic screen is disposed between the functional bezel and the cosmetic bezel, as recited in claims 8, 21 and 34; or that the cosmetic bezel includes a recess configured to receive the cosmetic screen, as recited in claims 9, 22 and 28; or that the cosmetic screen performs at least one of minimizing contaminants into the optical disk drive and wiping the optical disk as the optical disk is being inserted into the optical drive, as recited in claims 11 and 24.

Kan-o teaches an apparatus (as shown in Fig.6) comprising a cosmetic bezel 14 having an opening 3 to receive the optical disk 1 with a felt 4 attached to the cosmetic bezel (as shown in Fig.13). Furthermore, Kan-o shows a small recess in element 24 to receive the felt 4 (see col.5, lines 41-48). Additionally, Kano-o teaches the use of a ramp-like patch 10 in Fig.2, which is used within the optical drive apparatus shown in Fig.4 (as opposed to the conventional apparatus of Fig.5) that facilitates the loading/unloading of an optical disk by preventing contact of disk 1 with the loading slot 3. The patch 10 with a convex portion 9 is shaped in a manner capable of lowering the disk edge during loading and lifting of the disk edge during unloading. This patch further

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prevents scratching of the disk during such operation by being placed behind the front of panel 14 (see Fig.4; col.5, lines 34-59; col.6, lines 22-29).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add the felt member 4 (as a cosmetic screen) and patch element with convex portion 9 (as a disk guide ramp feature) as taught by Kan-o into the structure as disclosed by Zapalski in order to prevent contaminants from entering the enclosure housing the optical disk drive and further wiping the disk as it is loaded into the system and adopting the patch member from Kan-o as discussed above, so that the optical disk is not scratched during the loading/unloading operation due to contact between the disk edge and/or surface and the harder bezel surface. Additionally, it would have been obvious to one having ordinary skill in the art at the time the invention was made to rearrange the location of the cosmetic screen and disk guide elements as suggested by Kan-o by placing the felt member between functional bezel and cosmetic bezel of Zapalski and to attach the disk guide element of Kan-o (felt member) to the functional bezel since the functional bezel is located behind the cosmetic bezel in Zapalski in order to protect the disk from scratching and to prevent contaminants from entering the disk drive structure, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70 (CCPA 1950).

However, Zapalski as modified by Kan-o fails to disclose or fairly suggest the concept of an integrated bezel assembly and that the integrated bezel assembly is arranged such that the removal of the cosmetic bezel will also remove the functional bezel, as recited in claims 1, 12 and 25.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to have integrated the panels 42 and 40 of Zapalski together to form one piece during assembly such as by bolting or screwing as described above for which the removal of panel 42 of the integrated assembly would also remove panel 40 due to the snap fit fastening feature described by Zapalski, since it has been held that forming in one piece an article, which has formerly been formed in two pieces and put together, involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

Referring to claims 1, 12 and 25, no patentable weight can be ascribed to the method of manufacturing limitation(s) (i.e., “the integrated bezel assembly coupled to the optical drive and the enclosure after the cosmetic bezel is rigidly coupled to the functional bezel to form the integrated bezel assembly”), since “even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.” *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

Re claims 4-5 and 30: Zapalski further discloses the functional bezel includes a plurality of mounting points (defined by elements 47-48 in Fig.5) for mounting the functional bezel to the optical drive and for mounting the functional bezel to an enclosure that

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houses the slot loading optical drive (as discussed above; the optical drive with a slot for loading of an optical disk).

Re claims 6, 19 and 32: Zapalski further discloses the first plurality of attachment features of the functional bezel matches the second plurality of attachment features (as discussed above regarding claims 1, 12 and 25).

Re claims 10, 23 and 35: Zapalski discloses the claimed invention except for the second opening in the cosmetic bezel is larger than the first opening in the functional bezel to facilitate injection or ejection of the optical disk.

It would have been an obvious matter of design choice to modify the slot opening size of one of the panels, because a larger slot through which the disk is first inserted and a smaller second would further guide the disk due to the decrease in slot sizes, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Re claim 15: Zapalski further discloses the functional bezel has a first opening to receive the optical disk and a first plurality of attachment features, the functional bezel coupled to the optical drive, and the cosmetic bezel has a second opening to receive the optical disk and second plurality of attachment features, wherein the first opening and the second

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opening are in attachment to form the slot (as shown in Fig.4-5 and as discussed above regarding claim 12).

Re claim 16: Zapalski further discloses the functional bezel provides structural rigidity for the optical drive (since the panel 40 is securely attached to the optical housing 26, it must also provide rigidity for the optical drive enclosed within housing 26 as required for proper operation).

Re claims 17-18: Zapalski further discloses the functional bezel includes a plurality of mounting points (defined by elements 47-48 in Fig.5) for mounting the functional bezel to the optical drive and for mounting the functional bezel to an enclosure that houses the slot loading optical drive (as discussed above; the optical drive with a slot for loading of an optical disk).

Re claim 26: Zapalski further discloses the optical drive is rigidly mounted to the enclosure (as shown in Fig.2-3; the optical drive mentioned must be securely fixed inside the housing 26 so that proper loading/unloading operations can be performed for the system).

Re claim 36: Zapalski further discloses the functional bezel facilitates slot loading of the optical disk into the optical drive (as shown in Fig.4; the opening in panel 42 allows the disk to be loaded through the slot opening).

***Response to Arguments***

6. Applicant's arguments, see page 10, filed 3/23/2009, with respect to drawing objection and claims objections/112<sup>th</sup> 2<sup>nd</sup> rejection have been fully considered and are persuasive. The previous objections and/or rejection of the drawings and claims have been withdrawn, respectively.

7. Applicant's arguments filed 3/23/209 with respect to the claim rejections have been fully considered but they are not persuasive.

In re claims 1, 12 and 25: As explained above, a structural rearrangement of the components of Zapalski and Kan-o would provide a structure to meet the limitations as amended, since a rearrangement of parts is considered within the skill of an ordinary person in the art. Since the combined structure is capable of providing a ramp feature which can guide the disk during insertion and ejection to prevent such disk from being scratched during either process, all the limitations as amended are believed to be met, since the claims do not require the cosmetic screen to be attached to only one of the functional or cosmetic bezel is placed in between such bezels.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos E. Garcia whose telephone number is 571-270-1354. The examiner can normally be reached on 8:30 am to 5:00 pm, Monday thru Thursday and 8:30 to 4:00 pm, Fridays. If attempts to reach the examiner by telephone are unsuccessful, the

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examiner's supervisor, Andrea Wellington can be reached on 571-272-4483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. E. G./  
Examiner, Art Unit 2627  
6/26/2009

/Andrea L Wellington/  
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